

CRIMINAL YEAR SEMINAR

April 20, 2018 - Tucson, Arizona
May 11, 2018 - Phoenix, Arizona
May 18, 2018 - Chandler, Arizona



US SUPREME COURT LAW UPDATE

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OCTOBER TERM 2017-18 SUPREME COURT OF THE UNITED STATES



LAW OFFICES OF
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SUPREME COURT OF THE UNITED STATES
DISTRICT OF COLUMBIA v. WESBY
CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF
COLUMBIA CIRCUIT
No. 15-1485. Argued October 4, 2017—Decided January 22, 2018

Held: (1) The police officers had probable cause to arrest several partygoers who later sued for false arrest under the Fourth Amendment and District of Columbia law, and (2) the officers are entitled to qualified immunity.



ANDREW KISELA v. AMY HUGHES
ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
No. 17-467. Decided April 2, 2018

➤ **Held:** Police officer Andrew Kisela is entitled to qualified immunity because his actions did not violate clearly established statutory or constitutional rights of which a reasonable person would have known.

➤ **Overturned** – without briefing or oral argument – the 9th Circuit.



October Term 2014
SUPREME COURT OF THE UNITED STATES
JEREMY CARROLL v. ANDREW CARMAN, ET UX.
ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT
No. 14-212. Decided November 10, 2014

❖ Federal 42 U.S.C. § 1983 action

- ❖ A government official under § 1983 has immunity unless he violated a clear statutory or constitutional right at the time of the challenged conduct.
- ❖ *Harlow v. Fitzgerald*, 457 U.S. 800 (1982) - Qualified immunity shields government officials who violate someone's constitutional or statutory rights when "their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known."

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COMING ATTRACTIONS

TIMOTHY IVORY CARPENTER,
— v. —
UNITED STATES
ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SIXTH
CIRCUIT

• **Issue:** Whether the 4th Amendment permits the warrantless seizure and search of historical cellphone records revealing the location and movements of a cellphone user over 127 days.


United States the right of the people to be secure in their persons against unreasonable searches and seizures upon probable cause is guaranteed by the Fourth Amendment

The Fourth Amendment on your cell phone

COMING ATTRACTIONS

TERRENCE BYRD v. UNITED STATES OF AMERICA
ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE
THIRD CIRCUIT

Issue: Whether a driver has a reasonable expectation of privacy in a rental car when he has the renter's permission to drive the car but is not listed as an authorized driver on the rental agreement.




RYAN AUSTIN COLLINS
v.
**COMMONWEALTH OF VIRGINIA, ON PETITION
FOR A WRIT OF CERTIORARI TO THE SUPREME
COURT OF VIRGINIA**

Issue: Police search of vehicles outside of homes?

Whether the Fourth Amendment's automobile exception permits a police officer, uninvited and without a warrant, to enter private property, approach a house and search a vehicle parked a few feet from the house.


Does the "Auto Exception" swallow the "Curtilage"?



**CITY OF HAYS, KANSAS v. MATTHEW JACK DWIGHT
VOGT**
ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE TENTH
CIRCUIT

Issue: Whether the Fifth Amendment is violated when statements are used at a probable cause hearing but not at a criminal trial.

- Context = Civil lawsuit from a criminal prosecution against a police officer
- Dismissed for lack of probable cause
- Officer still lost a job.



TURNER ET AL. v. UNITED STATES CERTIORARI TO THE DISTRICT OF COLUMBIA COURT OF APPEALS No. 15-1503. Argued March 29, 2017—Decided June 22, 2017

Issue: Failure of Prosecutors in murder case to turn over existence of possible other suspect.



COMING
ATTRACTIONS

From Last Year

Class v. United States

COMING
ATTRACTIONS

➤ **Issue:** Does a guilty plea waive a defendant's right to challenge the constitutionality of his statute of conviction?


➤ Defendant had 3 firearms and 256 rounds in his locked car in a parking lot.

➤ He pled guilty.

➤ No waiver of appeal.

➤ D.C., First, and Tenth Circuit = waived

➤ Third, Fifth, Sixth, Ninth, and Eleventh = not waived



OCTOBER TERM, 2017

CLASS v. UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT No. 16-424. Argued October 4, 2017—Decided February 21, 2018

Holding: A guilty plea does not bar a federal criminal defendant from challenging the constitutionality of the statute of conviction on direct appeal.

Judgment: Reversed and remanded, 6-3, in an opinion by Justice Breyer on February 21, 2018. Justice Alito filed a dissenting opinion, in which Justices Kennedy and Thomas joined.




COMING
ATTRACTIONS

ROBERT MCCOY v. STATE OF LOUISIANA

ON WRIT OF CERTIORARI TO THE LOUISIANA SUPREME COURT

Issue: Whether it is unconstitutional for defense counsel to concede an accused's guilt over the accused's express objection.

Robert McCoy, a Louisiana death-row inmate who says that he should get a new trial because his own lawyer told jurors that he was guilty – over McCoy's express objection



OCTOBER TERM, 2017
HIDALGO V. ARIZONA
 No. 17-251, review denied 9/19/18.

➤ **SCOTUS Won't Hear Arizona Death Penalty Challenge**

➤ Abel Hidalgo = Arizona's capital punishment system makes too many killers eligible for death penalty.

➤ **Issues:** (1) Whether Arizona's capital sentencing scheme, which includes so many aggravating circumstances that virtually every defendant convicted of first-degree murder is eligible for death, violates the Eighth Amendment; and

➤ (2) whether the death penalty in and of itself violates the Eighth Amendment, in light of contemporary standards of decency.

OCTOBER TERM, 2017
Ayestas v. Davis

➤ **Ineffective assistance of counsel and investigators.**

➤ The Fifth Circuit had denied funding to a death-row inmate seeking an investigator to show ineffective assistance of counsel.

➤ Fifth Circuit standard = "substantial need"

➤ **SCOTUS = "substantial need" is too stringent = only "reasonably necessary."**

Past case - HINTON v. ALABAMA (2014)

❖ The One-eyed Defense Ballistics Expert

❖ Hinton spent 30 years on death row.

JUSTICE ALITO delivered the opinion of the Court.

"What the statutory phrase calls for is whether a reasonable attorney would regard the services as sufficiently important."

A person seeking funding "must not be expected to *prove* he will ... win relief if given the services he seeks."

But the "reasonably necessary" test "cannot be read to guarantee that an applicant will have enough money to turn over every stone."

OCTOBER TERM, 2017
Ayestas v. Davis
